

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

CHRISTINA L. SMITH,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Civil Action No. 07-1400
	)	
TWIN EXPRESS, INC.,	)	
	)	
Defendant.	)	

O R D E R

AND NOW, this 14th day of October, 2008, upon consideration of Defendant's Motion for Sanctions (document No. 35) filed in the above captioned matter on October 7, 2008,

IT IS HEREBY ORDERED that said Motion is GRANTED and the above captioned matter is DISMISSED with prejudice for failure of Plaintiff to appear at the October 2, 2008, Independent Medical Examination (IME) with Dr. Stuart Burnstein.

IT IS FURTHER ORDERED that Plaintiff shall reimburse Defendant the sum of \$390.00 for the cancellation fee charged to Defendant for Plaintiff's failure to appear at the IME scheduled for October 2, 2008. Payment shall be submitted to John Pion, Esquire, Dickie, McCamey & Chilcote, Two PPG Place, Suite 400, Pittsburgh, PA 15222-5402.

On April 3, 2008, this Court granted Defendant's first Motion to Compel and ordered Plaintiff to provide full and complete

answers to interrogatories and responses to Defendant's first request for production of documents. (See document No. 20).

On July 31, 2008, this Court granted Defendant's second Motion to Compel and ordered Plaintiff to provide a full and complete answer to Interrogatory No. 26. (See document No. 26).

On August 18, 2008, Defendant filed its third Motion to Compel and for Sanctions (document No. 29), wherein Defendant asserted that Plaintiff's counsel notified Defendant's counsel less than 48 hours before an IME scheduled for August 14, 2008, that Plaintiff would not appear for the examination. Defendant asserted that the next available date for the rescheduling of the IME of plaintiff would be October 2, 2008. Defendant sought an order requiring Plaintiff's appearance at the IME rescheduled for October 2, 2008, and, as a sanction, reimbursement of the \$380 cancellation fee charged to Defendant.

Plaintiff responded to Defendant's Motion, stating that Plaintiff would appear at the IME rescheduled for October 2, 2008 and that counsel for Defendant was mailed the \$380 cancellation fee. (See document No. 30). In reliance upon Plaintiff's representations, this Court denied Defendant's Motion to Compel and for Sanctions as moot. (See document No. 31).

In the present Motion for Sanctions, Defendant asserts that Plaintiff has again failed to appear for the IME scheduled for October 2, 2008, and that no acceptable excuse for failing to appear

has been provided. Defendant seeks reimbursement of the cancellation fee in the amount of \$390 and dismissal of the action. (See document No. 35).

Based upon the above, this Court hereby grants Defendant's Motion for Sanctions, and the above captioned matter is DISMISSED with prejudice for Plaintiff's failure to appear at the October 2, 2008 IME. Further, Plaintiff shall reimburse Defendant the sum of \$390.

s/Alan N. Bloch  
United States District Judge

ecf: Counsel of record

cc: Christina L. Smith  
502 First Avenue  
Destin, FL 32541  
(Certified and regular mail)